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Paper No. 25

In re Application of	:
Phillipe Jean Henri Berna	: DECISION ON PETITION
Serial No. 08/321,589	: REGARDING FINAL ACTION
Filed: October 12, 1994	:
For: PROCESS FOR MAKING A	
VERSATILE CLAMPING	
DEVICE DESIGNED TO HOLD	
OBJECTS WITHOUT	
DAMAGING THEM, SUCH A	
DEVICE AND ITS USE	

Applicant's petition, filed by facsimile transmission on September 5, 1995, requests that the examiner's holding of finality in the Office letter dated July 3, 1995 be withdrawn as being premature.

The petition is DENIED.

The petition alleges that as the limitation "at least one movable arm" had previously appeared in claims 1 and 2, the examiner's holding that the proposed amendment after final action adding this limitation to claim 12 would raise a new issue is incorrect, and indicates that the July 3, 1995 Office letter was incomplete and premature.

Arguments regarding the refusal to enter an amendment after final action are not relevant to the question of whether the action in question was correctly made final. The petition simply does not explain why the examiner erred in making the Office letter dated July 3, 1995 a final action.

Moreover, it is noted that the refusal to enter the amendment dated July 12, 1995 was predicated on the addition of the above quoted limitation to claim 12. The relevance of the fact that this limitation was in wholly different claims 1 and 2 prior to the final action does not mean that addition of the limitation to claim 12 was not a new issue within the meaning of the practice governing final rejections and amendments after final actions. In addition, the amendment dated July 12, 1995 was refused entry for other reasons, not addressed in the petition.

As the petition does not provide any basis for holding that the examiner's action in making the July 3, 1995 Office letter final was erroneous or an abuse of discretion, and as the petition does not provide a basis for holding that the refusal to enter the July 12, 1995 amendment was erroneous or an abuse of discretion, no change will be made in the status of the application. A proper response (an amendment *prima facie* placing the application in condition for allowance; or a notice of appeal) to the outstanding Office

letter dated July 3, 1995 remains necessary. The period for response continues to run as set in the Office letter dated July 3, 1995.

PETITION DENIED.



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